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Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20554

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Federal Communications Commission
Office of Secretary

In the Matter of

Amendment of Part 5 of the Commission's)
Rules to Revise the Experimental Radio) ET Docket No. 96 - 256
Service Regulations)

REPLY COMMENTS OF ROCKWELL INTERNATIONAL CORPORATION

Pursuant to Section 1.415 of the Federal Communications Commission ("the Commission") Rules and Regulations, Rockwell International Corporation ("Rockwell") hereby submits Reply Comments concerning the Notice of Proposed Rule Making ("the Notice") in the above-captioned proceeding regarding amendment of the Commission's Experimental Radio Service ("ERS") rules.¹

INTRODUCTION

The objectives of the Commission's proposed modifications to ERS, as described in the Notice, are: 1) to promote technical innovation and new services by encouraging experimentation; 2) to ensure that experimental licenses do not result in abuse of the Commission's process; 3) to eliminate unnecessary and burdensome regulations; and 4) to protect public safety frequencies.² Rockwell is pleased that a majority of parties commenting on the Commission's proposed

¹ *In the Matter of Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations*, Notice of Proposed Rule Making, ET Docket No. 96-256, FCC 96-475.

² Notice, para. 1.

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revisions to the ERS rules generally support these objectives.^{3 4} The theme of Rockwell's Comments, that the Commission should incorporate the highest practical level of flexibility in its new ERS rules in order to encourage experimentation, with some exceptions discussed below, is advanced in many of the comments submitted in this proceeding.

DISCUSSION

1) Commenting parties overwhelmingly support longer ERS licensing terms.

All parties commenting on the Notice support longer ERS licensing periods that would reduce regulatory burdens and costs for the Commission and ERS licensees.⁵ Motorola Satellite Communications, Inc., ("Motorola Satellite") suggests that the Commission grant licenses for durations between two and five years, based upon the request of the applicant but notes that tracking licenses of varying terms might create additional administrative burdens.⁶ Provided the Commission determines that the administrative burdens of such flexibility on its resources are not high, Rockwell agrees with Motorola Satellite's proposal. Rockwell maintains that five years is an appropriate maximum licensing period for reasons set forth in its comments.⁷

Comments directly responding to the Commission's question on whether five year license periods should be restricted to certain classes of ERS licensees support taking a flexible approach. Ericsson, while indicating that it takes no position on

³ See Comments of Ericsson Inc., page 1; Motorola, Inc. page 1; Motorola Satellite Communications, Inc., page 1; ProNet, Inc., page 1; and Rockwell, page 1.

⁴ AT&T Wireless Services, Inc., ("AT&T") while indicating its support for "rules that will make it easier for experimental licensees to explore and develop new radio technologies, equipment and systems designs and service concepts" also urges the Commission to address interference and "other issues between experimental and incumbent licensees" and further to "carefully limit the size and scope of both market and technological studies." See Comments of AT&T, Page 1.

⁵ See Comments of Ericsson Inc., page 2; Motorola, Inc. page 6; Motorola Satellite Communications, Inc., page 6; ProNet, Inc., page 3; AT&T, page 4; and Rockwell, page 2.

⁶ See Comments of Motorola Satellite, Pages 6-7.

⁷ See Comments of Rockwell, Pages, 2-3.

limiting five year license periods to a specific class of ERS licensee, believes that the Commission should provide five year licenses to entities engaged in the manufacturing of radio frequency equipment.⁸ ProNet, Inc. ("ProNet") argues that five year license periods should be available to all ERS licensees because they will cause "no diminution in the Commission's regulatory power over experimental licensees."⁹ Rockwell believes that the Commission should not unnecessarily restrict the reductions in administrative burdens associated with five year license periods to a certain class of licensees. The Commission maintains, in its proposed ERS rules, the regulatory tools necessary to prevent or stop abuse of five year license periods, including the abilities to condition grants and establish reporting requirements.¹⁰

2) AT&T's proposal that ERS licensees notify "in-band licensees" 30 days prior to commencing operations is unwarranted and would place unnecessary regulatory burdens on ERS licensees.

AT&T Wireless Services, Inc. ("AT&T") proposes that all ERS licensees be required to "provide written notification to other in-market entities licensed to use the band at least 30 days prior to commencing operations."¹¹ Rockwell strongly disagrees for the following reasons:

- AT&T has not established that interference from ERS licensees is a problem. AT&T offers no evidence that interference from ERS licensees is common or serious enough to warrant the regulatory burdens of its proposed notification scheme. To the contrary, the Commission, in proposing to eliminate the requirement that ERS licensees notify a Compliance and Information Bureau field

⁸ See Comments of Ericsson, Page 2.

⁹ See Comments of ProNet, Page 4.

¹⁰ See Comments of Rockwell, Page 3.

¹¹ See Comments of AT&T, Page 5.

office of experimental operations, indicates that “it has been our experience that experimental operations have rarely resulted in interference complaints.”¹²

Further, Rockwell believes that the Commission maintains more than adequate safeguards against interference from ERS licensees in its proposed new Section 5.85 for entities licensed in services allocated pursuant to Part 2 of the Commission’s rules.¹³ These safeguards include licensing ERS operations on the condition that they 1) accept harmful interference from and not cause harmful interference to authorized stations in allocated services; 2) immediately cease upon the Commission’s request; and 3) are subject to revocation without notice.¹⁴

- AT&T’s notification proposal is vague and does not take into account the nature of ERS or the Commission’s various other radio services, except for certain Commercial Mobile Radio Services (“CMRS”). In proposing that ERS applicants notify “in-market” licensees, does AT&T mean to define “in-market” as MTA or BTA market areas?¹⁵ If so, Rockwell questions whether MTAs and BTAs are proper geographical areas for analyzing interference between the ERS and each of the Commission’s radio services. Further, does AT&T’s proposed requirement that ERS licensees notify “in-band licensees” imply notification of incumbent licensees using frequencies identical to an ERS licensee or notification of all incumbent licensees operating in a particular CMRS band allocation?
- AT&T’s notification proposal would place a substantial additional regulatory burden on ERS licensees and the Commission and, therefore, runs counter to the objectives of the Notice. Because interference complaints against ERS operations are rare, as discussed above, AT&T’s proposal advances neither the Commission’s stated objective of removing unnecessary regulatory burdens nor

¹² Notice, para. 19.

¹³ Notice, para. 4 and Appendix A, Section 2.85.

¹⁴ It has been Rockwell’s experience that the Commission staff requires a rigorous showing of non-interference when authorizations for ERS operations in CMRS bands are requested.

¹⁵ See Comments of AT&T, page 5.

of preventing abuse of the Commission's process.^{16 17} AT&T's proposed notification scheme would in fact discourage experimentation by placing on ERS applicants unnecessary administrative burdens, expenses and waiting periods.

Rockwell notes that AT&T offers no suggestions about what sources would provide accurate lists of incumbent licensees in particular geographic areas and frequency bands for the Commission staff and ERS licensees if the Commission did adopt its notification proposal. While incumbent CMRS licensees in a cellular or PCS band are easy to identify because they are relatively few in number, in order to accurately identify all licensees in a number of non-CMRS bands and in a particular geographic area, an ERS licensee could require input from several independent frequency coordinators and the Wireless Bureau.

While Rockwell understands that the Commission's frequency data bases have improved, maintenance of definitive lists of incumbent licensees and provision of such lists to ERS licensees would cost an already thinly-stretched Experimental Licensing Branch unnecessary time and resources. Similarly, businesses and other institutions relying on scarce research and development funding would be discouraged from seeking to implement experimental programs by the prospect of conducting potentially complex and timely searches for incumbent licensees regardless of the actual potential for interference, contacting all of those licensees, satisfying the untested interference requirements of those licensees and, when agreement on coordination cannot be reached, returning to the Commission.¹⁸

Rockwell understands AT&T's desire to protect its revenue-generating licensed operations from harmful interference. However, AT&T's proposed notification scheme would unnecessarily discourage research and development of

¹⁶ Notice, para. 1.

¹⁷ Rockwell agrees with the Commission's objective to protect public safety frequencies. Rockwell believes it is in the public interest, with regard to experimental use of public safety frequencies, that licensees undertake the burdens of coordination. See Comments of Rockwell, Page 6.

¹⁸ Rockwell believes that the expense of hiring a consultant to conduct these steps would also discourage experimentation.

radio frequency equipment, systems and techniques, including the equipment, systems and techniques upon which commercial wireless businesses will depend in the future.

3) The Commission should incorporate highest practical level of flexibility in crafting the ERS rules, but carefully evaluate and monitor the use of ERS licenses, including the use of limited market study licenses.

Commenting parties have indicated that limited market studies licensed under the ERS rules are an important part of delivering well-developed products in a timely fashion and that the Commission should carefully evaluate each market study proposal.¹⁹ Rockwell agrees with this approach. Rockwell notes that the ERS in general serves as an important incubator for new services as well as technologies and equipment that are not yet covered under other parts of the Commission's rules. The Commission must maintain flexibility in the ERS rules to allow these services and technologies to grow in an experimental framework. The Commission must rely on its evaluation and oversight in order to prevent abuses of that framework.

Rockwell is not in a position to address the merits of the individual cases presented to the Commission in Comments to this docket.²⁰ However Rockwell suggests that the Commission evaluate all applications and, when necessary condition license grants to and monitor the operations of those licensees that have the potential to exceed the scope of the ERS as proposed in new Section 5.3. Entities seeking ERS authorization to conduct broad operations generating commercial revenues on a for profit basis should be required to petition the Commission for a waiver of the Commission's rules. As the Commission points out in the Notice and AT&T emphasizes in its Comments, ERS licensees should not be

¹⁹ See Comments of Motorola, page 7, and Comments of Ericsson, page 5.

²⁰ See Comments of AT&T concerning AirCell, and Comments of ProNet.

allowed to “establish commercial businesses under the guise of experimental licenses.”²¹

4) Rockwell supports Motorola’s proposed modification of new Section 5.61(b) providing automatic extension of an STA when the holder files an application for an ERS license at least 15 days before expiration of the STA.

Rockwell concurs with the view of Motorola, Inc. (“Motorola”) that “operation under experimental authority is not always predictable,” and that the Commission could prevent costly disruptions in the development process and reduce staff time spent on evaluating “extenuating circumstances” by permitting experimental authority of an STA to continue in force if an application is timely filed.²² Rockwell also concurs with Motorola that circumstances could arise requiring continuation of an experimental program operating under an STA late in the term of the STA. Therefore, Rockwell supports Motorola’s proposal that an STA should be automatically extended, pending the completion of processing of a related application for an ERS license, when that application is filed at least 15 days in advance of the expiration of the STA.

²¹ See Notice, para. 17 and Comments of AT&T, page 4.

²² See Comments of Motorola, Page 4.

CONCLUSION

Rockwell encourages the Commission to incorporate the highest practical level of flexibility in its new ERS rules in order to encourage experimentation with radio technology, equipment, systems and services. The Commission can and should counter any abuse or potential abuse of its rules and processes through the regulatory tools incorporated in the proposed ERS rules.

Respectfully submitted,

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February 28, 1997

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I, Michael V. Whetstine, do hereby certify that on this 28th day of February, 1997, I caused a copy of the foregoing "Reply Comments of Rockwell International" to be delivered by messenger (*) or first class mail to the following:

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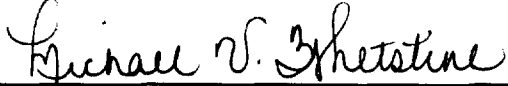
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